



General Assembly

January Session, 2007

Raised Bill No. 1077

LCO No. 3532

03532_____TRA

Referred to Committee on Transportation

Introduced by:
(TRA)

***AN ACT CONCERNING REVISIONS TO THE DRIVING UNDER THE
INFLUENCE STATUTES.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (a) of section 14-37a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (a) Any person whose operator's license has been suspended
5 pursuant to any provision of this chapter or chapter 248, except
6 pursuant to section 14-215 for operating under suspension or pursuant
7 to section 14-140 for failure to appear for [trial] a scheduled court
8 appearance, or pursuant to section 53a-56b for a conviction of
9 manslaughter with a motor vehicle, may make application to the
10 Commissioner of Motor Vehicles for a special permit to operate a
11 motor vehicle to and from such person's place of employment or, if
12 such person is not employed at a fixed location, to operate a motor
13 vehicle only in connection with, and to the extent necessary, to
14 properly perform such person's business or profession.

15 Sec. 2. Section 14-141 of the general statutes is repealed and the

16 following is substituted in lieu thereof (*Effective October 1, 2007*):

17 A record shall be kept by each court of original jurisdiction of any
18 violation of the laws relating to the registration, equipment and
19 operation of motor vehicles, the licensing of operators or the
20 establishment, maintenance or conduct of a pump or station for the
21 sale of any product to be used in the propelling of motor vehicles using
22 combustion type engines, or to the sale of such product, and of any
23 violation of the provisions of sections 53a-55 to 53a-57, inclusive, when
24 such violation has been caused by the use of a motor vehicle, of any
25 violation of sections 53a-70 to 53a-80, inclusive, or of a violation of the
26 provisions of any other criminal statute in which the use of a motor
27 vehicle is a principal part, of all cases in which any person arrested for
28 such violation forfeits his bail or has his case nolleed or judgment or
29 execution suspended, and of all cases in which the court ordered a
30 psychiatric examination under section 53-22; and a summary of such
31 record, with a statement of the number of the operator's license and the
32 registration number of the motor vehicle operated, shall, within five
33 days after such conviction, forfeiture or any other disposition or nolle,
34 be transmitted to the commissioner by such court. Each court shall
35 furnish to the commissioner the details of all such cases heard before it,
36 [and shall] Except as provided in subsection (h) of section 14-227a, as
37 amended by this act, each court shall make such recommendations as
38 to the suspension or revocation of the licenses of the parties defendant
39 as it deems advisable.

40 Sec. 3. Subdivision (5) of section 14-212 of the general statutes is
41 repealed and the following is substituted in lieu thereof (*Effective*
42 *October 1, 2007*):

43 (5) "Motor vehicle" includes all vehicles used on the public
44 highways, including vehicles that are not registered or are not eligible
45 for registration by the commissioner, pursuant to the provisions of
46 chapter 246.

47 Sec. 4. Section 14-227a of the general statutes is repealed and the

48 following is substituted in lieu thereof (*Effective October 1, 2007*):

49 No person shall operate a motor vehicle while under the influence
 50 of intoxicating liquor or any drug or both. A person commits the
 51 offense of operating a motor vehicle while under the influence of
 52 intoxicating liquor or any drug or both if such person operates a motor
 53 vehicle (1) while under the influence of intoxicating liquor or any drug
 54 or both, or (2) while such person has an elevated blood alcohol content.
 55 For the purposes of this section, "elevated blood alcohol content"
 56 means (A) a ratio of alcohol in the blood of such person that is eight-
 57 hundredths of one per cent or more of alcohol, by weight, or (B) if such
 58 person is operating a commercial motor vehicle, as defined in section
 59 14-1, a ratio of alcohol in the blood of such person that is four-
 60 hundredths of one per cent or more of alcohol, by weight, and "motor
 61 vehicle" includes a snowmobile and all-terrain vehicle, as those terms
 62 are defined in section 14-379.

63 (b) Except as provided in subsection (c) of this section, in any
 64 criminal prosecution for violation of subsection (a) of this section,
 65 evidence respecting the amount of alcohol or drug in the defendant's
 66 blood or urine at the time of the alleged offense, as shown by a
 67 chemical analysis of the defendant's breath, blood or urine shall be
 68 admissible and competent provided: (1) The defendant was afforded a
 69 reasonable opportunity to telephone an attorney prior to the
 70 performance of the test and consented to the taking of the test upon
 71 which such analysis is made; (2) a true copy of the report of the test
 72 result was mailed to or personally delivered to the defendant [within
 73 twenty-four hours or by the end of the next regular] not later than
 74 three business [day] days, after such result was known, whichever is
 75 later; (3) the test was performed by or at the direction of a police officer
 76 according to methods and with equipment approved by the
 77 Department of Public Safety and was performed in accordance with
 78 the regulations adopted under subsection (d) of this section; (4) the
 79 device used for such test was checked for accuracy in accordance with
 80 the regulations adopted under subsection (d) of this section; (5) an

81 additional chemical test of the same type was performed [at least
 82 thirty] not less than ten minutes after the initial test was performed or,
 83 if requested by the police officer for reasonable cause, an additional
 84 chemical test of a different type was performed to detect the presence
 85 of a drug or drugs other than or in addition to alcohol, provided the
 86 results of the initial test shall not be inadmissible under this subsection
 87 if reasonable efforts were made to have such additional test performed
 88 in accordance with the conditions set forth in this subsection and such
 89 additional test was not performed or was not performed within a
 90 reasonable time, or the results of such additional test are not
 91 admissible for failure to meet a condition set forth in this subsection;
 92 and (6) evidence is presented that the test was commenced within two
 93 hours of operation. In any prosecution under this section it shall be a
 94 rebuttable presumption that the results of such chemical analysis
 95 establish the ratio of alcohol in the blood of the defendant at the time
 96 of the alleged offense. [, except that if the results of the additional test
 97 indicate that the ratio of alcohol in the blood of such defendant is
 98 twelve-hundredths of one per cent or less of alcohol, by weight, and is
 99 higher than the results of the first test, evidence shall be presented that
 100 demonstrates that the test results and the analysis thereof accurately
 101 indicate the blood alcohol content at the time of the alleged offense.] In
 102 any prosecution under this section the court may admit the results of
 103 the chemical analysis of the defendant's blood, breath, or urine,
 104 notwithstanding any failure or alleged failure to comply strictly with
 105 the conditions set forth in subdivisions (3) to (6), inclusive, of this
 106 subsection, if evidence is presented that such failure or alleged failure
 107 does not materially affect the validity of such results.

108 (c) In any prosecution for a violation of subdivision (1) of subsection
 109 (a) of this section, reliable evidence respecting the amount of alcohol in
 110 the defendant's blood or urine at the time of the alleged offense, as
 111 shown by a chemical analysis of the defendant's blood, breath or urine,
 112 otherwise admissible under subsection (b) of this section, shall be
 113 admissible only at the request of the defendant.

114 (d) The Commissioner of Public Safety shall ascertain the reliability
115 of each method and type of device offered for chemical testing and
116 analysis purposes of blood, of breath and of urine and certify those
117 methods and types which said commissioner finds suitable for use in
118 testing and analysis of blood, breath and urine, respectively, in this
119 state. The Commissioner of Public Safety shall adopt regulations, in
120 accordance with chapter 54, governing the conduct of chemical tests,
121 the operation and use of chemical test devices, the training and
122 certification of operators of such devices and the drawing or obtaining
123 of blood, breath or urine samples as said commissioner finds necessary
124 to protect the health and safety of persons who submit to chemical
125 tests and to insure reasonable accuracy in testing results. Such
126 regulations shall not require recertification of a police officer solely
127 because such officer terminates such officer's employment with the law
128 enforcement agency for which certification was originally issued and
129 commences employment with another such agency.

130 (e) In any criminal prosecution for a violation of subsection (a) of
131 this section, evidence that the defendant refused to submit to a blood,
132 breath or urine test requested in accordance with section 14-227b, as
133 amended by this act, shall be admissible provided the requirements of
134 subsection (b) of said section have been satisfied. If a case involving a
135 violation of subsection (a) of this section is tried to a jury, the court
136 shall instruct the jury as to any inference that may or may not be
137 drawn from the defendant's refusal to submit to a blood, breath or
138 urine test.

139 (f) If a person is charged with a violation of the provisions of
140 subsection (a) of this section, the charge may not be reduced, nolle or
141 dismissed unless the prosecuting authority states in open court such
142 prosecutor's reasons for the reduction, nolle or dismissal.

143 (g) Any person who violates any provision of subsection (a) of this
144 section shall: (1) For conviction of a first violation, (A) be fined not less
145 than five hundred dollars or more than one thousand dollars, and (B)

146 be (i) imprisoned not more than six months, forty-eight consecutive
147 hours of which may not be suspended or reduced in any manner, or
148 (ii) imprisoned not more than six months, with the execution of such
149 sentence of imprisonment suspended entirely and a period of
150 probation imposed requiring as a condition of such probation that
151 such person perform one hundred hours of community service, as
152 defined in section 14-227e, and (C) have such person's motor vehicle
153 operator's license or nonresident operating privilege suspended for
154 one year; (2) for conviction of a second violation within ten years after
155 a prior conviction for the same offense, (A) be fined not less than one
156 thousand dollars or more than four thousand dollars, (B) be
157 imprisoned not more than two years, one hundred twenty consecutive
158 days of which may not be suspended or reduced in any manner, and
159 sentenced to a period of probation requiring as a condition of such
160 probation that such person perform one hundred hours of community
161 service, as defined in section 14-227e, and (C) (i) have such person's
162 motor vehicle operator's license or nonresident operating privilege
163 suspended for three years or until the date of such person's twenty-
164 first birthday, whichever is longer, or (ii) if such person has been
165 convicted of a violation of subdivision (1) of subsection (a) of this
166 section on account of being under the influence of intoxicating liquor
167 or of subdivision (2) of subsection (a) of this section, have such
168 person's motor vehicle operator's license or nonresident operating
169 privilege suspended for one year and be prohibited for the two-year
170 period following completion of such period of suspension from
171 operating a motor vehicle unless such motor vehicle is equipped with
172 a functioning, approved ignition interlock device, as defined in section
173 14-227j; and (3) for conviction of a third and subsequent violation
174 within ten years after a prior conviction for the same offense, (A) be
175 fined not less than two thousand dollars or more than eight thousand
176 dollars, (B) be imprisoned not more than three years, one year of which
177 may not be suspended or reduced in any manner, and sentenced to a
178 period of probation requiring as a condition of such probation that
179 such person perform one hundred hours of community service, as

180 defined in section 14-227e, and (C) have such person's motor vehicle
181 operator's license or nonresident operating privilege permanently
182 revoked upon such third offense. For purposes of the imposition of
183 penalties for a second or third and subsequent offense pursuant to this
184 subsection, a conviction under the provisions of subsection (a) of this
185 section in effect on October 1, 1981, or as amended thereafter, a
186 conviction under the provisions of either subdivision (1) or (2) of
187 subsection (a) of this section, a conviction under the provisions of
188 section 53a-56b or 53a-60d or a conviction in any other state of any
189 offense the essential elements of which are determined by the court to
190 be substantially the same as subdivision (1) or (2) of subsection (a) of
191 this section or section 53a-56b or 53a-60d, shall constitute a prior
192 conviction for the same offense.

193 (h) (1) Each court shall report each conviction under subsection (a)
194 of this section to the Commissioner of Motor Vehicles, in accordance
195 with the provisions of section 14-141. The commissioner shall suspend
196 the motor vehicle operator's license or nonresident operating privilege
197 of the person reported as convicted for the period of time required by
198 subsection (g) of this section. The commissioner shall determine the
199 period of time required by said subsection (g) based on the number of
200 convictions such person has had within the specified time period
201 according to such person's driving history record, notwithstanding the
202 sentence imposed by the court for such conviction. The driving record
203 history as maintained by the commissioner shall include all
204 convictions under this section that have occurred within the preceding
205 ten years, including convictions resulting from the operation of a
206 snowmobile or all-terrain vehicle in violation of the provisions of this
207 section. If any such person convicted under this section has been
208 sentenced to a period of incarceration, the commissioner may
209 commence the period of suspension after such person has been
210 released from incarceration. (2) The motor vehicle operator's license or
211 nonresident operating privilege of a person found guilty under
212 subsection (a) of this section who is under eighteen years of age shall
213 be suspended by the commissioner for the period of time set forth in

214 subsection (g) of this section, or until such person attains the age of
215 eighteen years, whichever period is longer. (3) The motor vehicle
216 operator's license or nonresident operating privilege of a person found
217 guilty under subsection (a) of this section who, at the time of the
218 offense, was operating a motor vehicle in accordance with a special
219 operator's permit issued pursuant to section 14-37a shall be suspended
220 by the commissioner for twice the period of time set forth in subsection
221 (g) of this section. (4) If an appeal of any conviction under subsection
222 (a) of this section is taken, the suspension of the motor vehicle
223 operator's license or nonresident operating privilege by the
224 commissioner, in accordance with this subsection, shall be stayed
225 during the pendency of such appeal.

226 (i) (1) The Commissioner of Motor Vehicles shall permit a person
227 whose license has been suspended in accordance with the provisions
228 of subparagraph (C)(ii) of subdivision (2) of subsection (g) of this
229 section to operate a motor vehicle if (A) such person has served not
230 less than one year of such suspension, and (B) such person has
231 installed an approved ignition interlock device in each motor vehicle
232 owned or to be operated by such person. No person whose license is
233 suspended by the commissioner for any other reason shall be eligible
234 to operate a motor vehicle equipped with an approved ignition
235 interlock device. (2) All costs of installing and maintaining an ignition
236 interlock device shall be borne by the person required to install such
237 device. (3) The commissioner shall adopt regulations, in accordance
238 with the provisions of chapter 54, to implement the provisions of this
239 subsection. The regulations shall establish procedures for the approval
240 of ignition interlock devices, for the proper calibration and
241 maintenance of such devices and for the installation of such devices by
242 any firm approved and authorized by the commissioner. (4) The
243 provisions of this subsection shall not be construed to authorize the
244 continued operation of a motor vehicle equipped with an ignition
245 interlock device by any person whose operator's license or nonresident
246 operating privilege is withdrawn, suspended or revoked for any other
247 reason. (5) The provisions of this subsection shall apply to any person

248 whose license has been suspended in accordance with the provisions
249 of subparagraph (C)(ii) of subdivision (2) of subsection (g) of this
250 section on or after September 1, 2003.

251 (j) In addition to any fine or sentence imposed pursuant to the
252 provisions of subsection (g) of this section, the court may order such
253 person to participate in an alcohol education and treatment program.

254 (k) Notwithstanding the provisions of subsection (b) of this section,
255 evidence respecting the amount of alcohol or drug in the blood or
256 urine of an operator of a motor vehicle involved in an accident who
257 has suffered or allegedly suffered physical injury in such accident,
258 which evidence is derived from a chemical analysis of a blood sample
259 taken from or a urine sample provided by such person after such
260 accident at the scene of the accident, while en route to a hospital or at a
261 hospital, shall be competent evidence to establish probable cause for
262 the arrest by warrant of such person for a violation of subsection (a) of
263 this section and shall be admissible and competent in any subsequent
264 prosecution thereof if: (1) The blood sample was taken or the urine
265 sample was provided for the diagnosis and treatment of such injury;
266 (2) if a blood sample was taken, the blood sample was taken in
267 accordance with the regulations adopted under subsection (d) of this
268 section; (3) a police officer has demonstrated to the satisfaction of a
269 judge of the Superior Court that such officer has reason to believe that
270 such person was operating a motor vehicle while under the influence
271 of intoxicating liquor or drug or both and that the chemical analysis of
272 such blood or urine sample constitutes evidence of the commission of
273 the offense of operating a motor vehicle while under the influence of
274 intoxicating liquor or drug or both in violation of subsection (a) of this
275 section; and (4) such judge has issued a search warrant in accordance
276 with section 54-33a authorizing the seizure of the chemical analysis of
277 such blood or urine sample. Such search warrant may also authorize
278 the seizure of the medical records prepared by the hospital in
279 connection with the diagnosis or treatment of such injury.

280 (l) If the court sentences a person convicted of a violation of
 281 subsection (a) of this section to a period of probation, the court may
 282 require as a condition of such probation that such person participate in
 283 a victim impact panel program approved by the Court Support
 284 Services Division of the Judicial Department. Such victim impact panel
 285 program shall provide a nonconfrontational forum for the victims of
 286 alcohol-related or drug-related offenses and offenders to share
 287 experiences on the impact of alcohol-related or drug-related incidents
 288 in their lives. Such victim impact panel program shall be conducted by
 289 a nonprofit organization that advocates on behalf of victims of
 290 accidents caused by persons who operated a motor vehicle while
 291 under the influence of intoxicating liquor or any drug, or both. Such
 292 organization may assess a participation fee of not more than twenty-
 293 five dollars on any person required by the court to participate in such
 294 program.

295 Sec. 5. Section 14-227b of the general statutes is repealed and the
 296 following is substituted in lieu thereof (*Effective October 1, 2007*):

297 (a) Any person who operates a motor vehicle in this state shall be
 298 deemed to have given such person's consent to a chemical analysis of
 299 such person's blood, breath or urine and, if such person is a minor,
 300 such person's parent or parents or guardian shall also be deemed to
 301 have given their consent.

302 (b) If any such person, having been placed under arrest for
 303 operating a motor vehicle while under the influence of intoxicating
 304 liquor or any drug or both, and thereafter, after being apprised of such
 305 person's constitutional rights, having been requested to submit to a
 306 blood, breath or urine test at the option of the police officer, having
 307 been afforded a reasonable opportunity to telephone an attorney prior
 308 to the performance of such test and having been informed that such
 309 person's license or nonresident operating privilege may be suspended
 310 in accordance with the provisions of this section if such person refuses
 311 to submit to such test or if such person submits to such test and the

312 results of such test indicate that such person has an elevated blood
313 alcohol content, and that evidence of any such refusal shall be
314 admissible in accordance with subsection (e) of section 14-227a, as
315 amended by this act, and may be used against such person in any
316 criminal prosecution, refuses to submit to the designated test, the test
317 shall not be given; provided, if the person refuses or is unable to
318 submit to a blood test, the police officer shall designate the breath or
319 urine test as the test to be taken. The police officer shall make a
320 notation upon the records of the police department that such officer
321 informed the person that such person's license or nonresident
322 operating privilege may be suspended if such person refused to submit
323 to such test or if such person submitted to such test and the results of
324 such test indicated that such person had an elevated blood alcohol
325 content.

326 (c) If the person arrested refuses to submit to such test or analysis or
327 submits to such test or analysis, commenced within two hours of the
328 time of operation, and the results of such test or analysis indicate that
329 such person has an elevated blood alcohol content, the police officer,
330 acting on behalf of the Commissioner of Motor Vehicles, shall
331 immediately revoke and take possession of the motor vehicle
332 operator's license or, if such person is a nonresident, suspend the
333 nonresident operating privilege of such person, for a twenty-four-hour
334 period. The police officer shall prepare a [written] report of the
335 incident and shall mail or transmit the report and a copy of the results
336 of any chemical test or analysis to the Department of Motor Vehicles
337 within three business days. The report shall [be made on a form
338 approved by] contain such information as prescribed by the
339 Commissioner of Motor Vehicles and shall be subscribed and sworn to
340 under penalty of false statement as provided in section 53a-157b by the
341 arresting officer. If the person arrested refused to submit to such test or
342 analysis, the report shall be endorsed by a third person who witnessed
343 such refusal. The report shall set forth the grounds for the officer's
344 belief that there was probable cause to arrest such person for operating
345 a motor vehicle while under the influence of intoxicating liquor or any

346 drug or both and shall state that such person had refused to submit to
347 such test or analysis when requested by such police officer to do so or
348 that such person submitted to such test or analysis, commenced within
349 two hours of the time of operation, and the results of such test or
350 analysis indicated that such person had an elevated blood alcohol
351 content. The commissioner may accept a report that is prepared and
352 transmitted as an electronic record and that bears an electronic
353 signature or signatures, subject to such requirements concerning
354 security procedures as the commissioner may direct. As used in this
355 subsection, the terms "electronic", "electronic record", "electronic
356 signature", and "security procedure" have the meanings set forth in
357 section 1-267.

358 (d) If the person arrested submits to a blood or urine test at the
359 request of the police officer, and the specimen requires laboratory
360 analysis in order to obtain the test results, the police officer shall not
361 take possession of the motor vehicle operator's license of such person
362 or, except as provided in this subsection, follow the procedures
363 subsequent to taking possession of the operator's license as set forth in
364 subsection (c) of this section. If the test results indicate that such
365 person has an elevated blood alcohol content, the police officer,
366 immediately upon receipt of the test results, shall notify the
367 Commissioner of Motor Vehicles and submit to the commissioner the
368 [written] report required pursuant to subsection (c) of this section.

369 (e) (1) Except as provided in subdivision (2) of this subsection, upon
370 receipt of such report, the Commissioner of Motor Vehicles may
371 suspend any license or nonresident operating privilege of such person
372 effective as of a date certain, which date shall be not later than thirty
373 days after the date such person received notice of such person's arrest
374 by the police officer. Any person whose license or operating privilege
375 has been suspended in accordance with this subdivision shall
376 automatically be entitled to a hearing before the commissioner to be
377 held prior to the effective date of the suspension. The commissioner
378 shall send a suspension notice to such person informing such person

379 that such person's operator's license or nonresident operating privilege
380 is suspended as of a date certain and that such person is entitled to a
381 hearing prior to the effective date of the suspension and may schedule
382 such hearing by contacting the Department of Motor Vehicles not later
383 than seven days after the date of mailing of such suspension notice.

384 (2) If the person arrested (A) is involved in an accident resulting in a
385 fatality, or (B) has previously had such person's operator's license or
386 nonresident operating privilege suspended under the provisions of
387 section 14-227a, as amended by this act, during the ten-year period
388 preceding the present arrest, upon receipt of such report, the
389 Commissioner of Motor Vehicles may suspend any license or
390 nonresident operating privilege of such person effective as of the date
391 specified in a notice of such suspension to such person. Any person
392 whose license or operating privilege has been suspended in accordance
393 with this subdivision shall automatically be entitled to a hearing before
394 the commissioner. The commissioner shall send a suspension notice to
395 such person informing such person that such person's operator's
396 license or nonresident operating privilege is suspended as of the date
397 specified in such suspension notice, and that such person is entitled to
398 a hearing and may schedule such hearing by contacting the
399 Department of Motor Vehicles not later than seven days after the date
400 of mailing of such suspension notice. Any suspension issued under
401 this subdivision shall remain in effect until such suspension is affirmed
402 or such license or operating privilege is reinstated in accordance with
403 subsections (f) and (h) of this section.

404 (f) If such person does not contact the department to schedule a
405 hearing, the commissioner shall affirm the suspension contained in the
406 suspension notice for the appropriate period specified in subsection (i)
407 or (j) of this section.

408 (g) If such person contacts the department to schedule a hearing, the
409 department shall assign a date, time and place for the hearing, which
410 date shall be prior to the effective date of the suspension, except that,

411 with respect to a person whose license or nonresident operating
 412 privilege is suspended in accordance with subdivision (2) of subsection
 413 (e) of this section, such hearing shall be scheduled not later than thirty
 414 days after such person contacts the department. At the request of such
 415 person or the hearing officer and upon a showing of good cause, the
 416 commissioner may grant one continuance for a period not to exceed
 417 fifteen days. The hearing shall be limited to a determination of the
 418 following issues: (1) [Did the police officer have probable cause to
 419 arrest the person for operating a motor vehicle while under the
 420 influence of intoxicating liquor or any drug or both; (2) was] Was such
 421 person placed under arrest; [(3)] (2) did such person refuse to submit
 422 to such test or analysis or did such person submit to such test or
 423 analysis, commenced within two hours of the time of operation, and
 424 the results of such test or analysis indicated that such person had an
 425 elevated blood alcohol content; and [(4)] (3) was such person operating
 426 the motor vehicle. In the hearing, the results of the test or analysis shall
 427 be sufficient to indicate the ratio of alcohol in the blood of such person
 428 at the time of operation, [except that if the results of the additional test
 429 indicate that the ratio of alcohol in the blood of such person is
 430 twelve-hundredths of one per cent or less of alcohol, by weight, and is
 431 higher than the results of the first test, evidence shall be presented that
 432 demonstrates that the test results and analysis thereof accurately
 433 indicate the blood alcohol content at the time of operation] provided
 434 that evidence is presented that the test or analysis was commenced not
 435 later than two hours after the time of operation. The fees of any
 436 witness summoned to appear at the hearing shall be the same as
 437 provided by the general statutes for witnesses in criminal cases.

438 (h) If, after such hearing, the commissioner finds on any one of the
 439 said issues in the negative, the commissioner shall reinstate such
 440 license or operating privilege. If, after such hearing, the commissioner
 441 does not find on any one of the said issues in the negative or if such
 442 person fails to appear at such hearing, the commissioner shall affirm
 443 the suspension contained in the suspension notice for the appropriate
 444 period specified in subsection (i) or (j) of this section. The

445 commissioner shall render a decision at the conclusion of such hearing
446 or send a notice of the decision by bulk certified mail to such person
447 not later than thirty days or, if a continuance is granted, not later than
448 forty-five days from the date such person received notice of such
449 person's arrest by the police officer. The notice of such decision sent by
450 certified mail to the address of such person as shown by the records of
451 the commissioner shall be sufficient notice to such person that such
452 person's operator's license or nonresident operating privilege is
453 reinstated or suspended, as the case may be. Unless a continuance of
454 the hearing is granted pursuant to subsection (g) of this section, if the
455 commissioner fails to render a decision within thirty days from the
456 date such person received notice of such person's arrest by the police
457 officer, the commissioner shall reinstate such person's operator's
458 license or nonresident operating privilege, provided notwithstanding
459 such reinstatement the commissioner may render a decision not later
460 than two days thereafter suspending such operator's license or
461 nonresident operating privilege.

462 (i) Except as provided in subsection (j) of this section, the
463 commissioner shall suspend the operator's license or nonresident
464 operating privilege of a person who did not contact the department to
465 schedule a hearing, who failed to appear at a hearing or against whom,
466 after a hearing, the commissioner held pursuant to subsection (h) of
467 this section, as of the effective date contained in the suspension notice
468 or the date the commissioner renders a decision, whichever is later, for
469 a period of: (1) (A) Except as provided in subparagraph (B) of this
470 subdivision, ninety days, if such person submitted to a test or analysis
471 and the results of such test or analysis indicated that such person had
472 an elevated blood alcohol content, (B) one hundred twenty days, if
473 such person submitted to a test or analysis and the results of such test
474 or analysis indicated that the ratio of alcohol in the blood of such
475 person was sixteen-hundredths of one per cent or more of alcohol, by
476 weight, or (C) six months if such person refused to submit to such test
477 or analysis, except that, if such person has previously been convicted
478 of a violation of section 14-227a, as amended by this act, one year, (2) if

479 such person has previously had such person's operator's license or
 480 nonresident operating privilege suspended under this section, (A)
 481 except as provided in subparagraph (B) of this subdivision, nine
 482 months if such person submitted to a test or analysis and the results of
 483 such test or analysis indicated that such person had an elevated blood
 484 alcohol content, (B) ten months if such person submitted to a test or
 485 analysis and the results of such test or analysis indicated that the ratio
 486 of alcohol in the blood of such person was sixteen-hundredths of one
 487 per cent or more of alcohol, by weight, and (C) one year if such person
 488 refused to submit to such test or analysis, except that, if such person
 489 has previously been convicted of a violation of section 14-227a, as
 490 amended by this act, two years, and (3) if such person has two or more
 491 times previously had such person's operator's license or nonresident
 492 operating privilege suspended under this section, (A) except as
 493 provided in subparagraph (B) of this subdivision, two years if such
 494 person submitted to a test or analysis and the results of such test or
 495 analysis indicated that such person had an elevated blood alcohol
 496 content, (B) two and one-half years if such person submitted to a test
 497 or analysis and the results of such test or analysis indicated that the
 498 ratio of alcohol in the blood of such person was sixteen-hundredths of
 499 one per cent or more of alcohol, by weight, and (C) three years if such
 500 person refused to submit to such test or analysis, except that, if such
 501 person has previously been convicted of a violation of section 14-227a,
 502 as amended by this act, six years.

503 (j) The commissioner shall suspend the operator's license or
 504 nonresident operating privilege of a person under twenty-one years of
 505 age who did not contact the department to schedule a hearing, who
 506 failed to appear at a hearing or against whom, after a hearing, the
 507 commissioner held pursuant to subsection (h) of this section, as of the
 508 effective date contained in the suspension notice or the date the
 509 commissioner renders a decision, whichever is later, for twice the
 510 appropriate period of time specified in subsection (i) of this section.

511 (k) Notwithstanding the provisions of subsections (b) to (j),

512 inclusive, of this section, any police officer who obtains the results of a
 513 chemical analysis of a blood sample taken from an operator of a motor
 514 vehicle involved in an accident who suffered or allegedly suffered
 515 physical injury in such accident or who is otherwise deemed by a
 516 police officer to require hospital treatment or observation, shall notify
 517 the Commissioner of Motor Vehicles and submit to the commissioner a
 518 [written] report if such results indicate that such person had an
 519 elevated blood alcohol content, and if such person was arrested for
 520 violation of section 14-227a, as amended by this act, in connection with
 521 such accident or incident requiring hospital treatment or observation.
 522 The report shall be made on a form approved by the commissioner
 523 containing such information as the commissioner prescribes, and shall
 524 be subscribed and sworn to under penalty of false statement, as
 525 provided in section 53a-157b, by the police officer. The commissioner
 526 may, after notice and an opportunity for hearing, which shall be
 527 conducted in accordance with chapter 54, suspend the motor vehicle
 528 operator's license or nonresident operating privilege of such person for
 529 [a period of up to ninety days, or, if such person has previously had
 530 such person's operator's license or nonresident operating privilege
 531 suspended under this section for a period of up to one year] the
 532 appropriate period specified by subsection (i) or (j) of this section. Each
 533 hearing conducted under this subsection shall be limited to a
 534 determination of the following issues: (1) Whether [the police officer
 535 had probable cause to arrest the person for operating a motor vehicle
 536 while under the influence of intoxicating liquor or drug or both; (2)
 537 whether] such person was placed under arrest for a violation of section
 538 14-227a, as amended by this act; [(3)] (2) whether such person was
 539 operating the motor vehicle; [(4)] (3) whether the results of the analysis
 540 of the blood of such person indicate that such person had an elevated
 541 blood alcohol content; and [(5)] (4) whether the blood sample was
 542 obtained in accordance with conditions for admissibility and
 543 competence as evidence as set forth in subsection [(j)] (k) of section 14-
 544 227a. If, after such hearing, the commissioner finds on any one of the
 545 said issues in the negative, the commissioner shall not impose a

546 suspension. The fees of any witness summoned to appear at the
547 hearing shall be the same as provided by the general statutes for
548 witnesses in criminal cases, as provided in section 52-260.

549 (l) The provisions of this section shall apply with the same effect to
550 the refusal by any person to submit to an additional chemical test as
551 provided in subdivision (5) of subsection (b) of section 14-227a, as
552 amended by this act.

553 (m) The provisions of this section shall not apply to any person
554 whose physical condition is such that, according to competent medical
555 advice, such test would be inadvisable.

556 (n) The state shall pay the reasonable charges of any physician who,
557 at the request of a municipal police department, takes a blood sample
558 for purposes of a test under the provisions of this section.

559 (o) For the purposes of this section, "elevated blood alcohol content"
560 means (1) a ratio of alcohol in the blood of such person that is eight-
561 hundredths of one per cent or more of alcohol, by weight, [or] (2) if
562 such person is operating a commercial motor vehicle, a ratio of alcohol
563 in the blood of such person that is four-hundredths of one per cent or
564 more of alcohol, by weight, or (3) if such person is under twenty-one
565 years of age, a ratio of alcohol in the blood of such person that is two-
566 hundredths of one per cent or more of alcohol, by weight.

567 (p) The Commissioner of Motor Vehicles shall adopt regulations, in
568 accordance with chapter 54, to implement the provisions of this
569 section.

570 Sec. 6. Subsection (h) of section 14-36 of the general statutes is
571 repealed and the following is substituted in lieu thereof (*Effective*
572 *October 1, 2007*):

573 (h) (1) Any person who violates any provision of this section shall,
574 for a first offense, be deemed to have committed an infraction and be
575 fined not less than seventy-five dollars or more than ninety dollars

576 and, for any subsequent offense, shall be fined not less than two
577 hundred fifty dollars or more than three hundred fifty dollars or be
578 imprisoned not more than thirty days, or both.

579 (2) In addition to the penalty prescribed under subdivision (1) of
580 this subsection, any person who violates any provision of this section
581 who (A) has, prior to the commission of the present violation,
582 committed a violation of this section or subsection (a) of section 14-215,
583 shall be fined not more than five hundred dollars or sentenced to
584 perform not more than one hundred hours of community service, or
585 (B) has, prior to the commission of the present violation, committed
586 two or more violations of this section or subsection (a) of section 14-
587 215, or any combination thereof, shall be sentenced to a term of
588 imprisonment of [ninety days which may not be suspended or reduced
589 in any manner] one year, ninety days of which may not be suspended
590 or reduced in any manner.

591 Sec. 7. Subsection (c) of section 14-215 of the general statutes is
592 repealed and the following is substituted in lieu thereof (*Effective*
593 *October 1, 2007*):

594 (c) Any person who operates any motor vehicle during the period
595 such person's operator's license or right to operate a motor vehicle in
596 this state is under suspension or revocation on account of a violation of
597 subsection (a) of section 14-227a, as amended by this act, or section
598 53a-56b or 53a-60d or pursuant to section 14-227b, as amended by this
599 act, shall be fined not less than five hundred dollars or more than one
600 thousand dollars and imprisoned not more than one year, and, in the
601 absence of any mitigating circumstances as determined by the court,
602 thirty consecutive days of the sentence imposed may not be suspended
603 or reduced in any manner. For a violation that occurs while any person
604 is under suspension for a second violation of any of the offenses
605 specified in this section, such person shall be imprisoned for not more
606 than two years, and in the absence of any mitigating circumstances as
607 determined by the court, one hundred twenty consecutive days of the

608 sentence imposed may not be suspended or reduced in any manner.
609 For a violation that occurs while any person is under suspension for a
610 third or subsequent violation of any of the offenses specified in this
611 section, such person shall be imprisoned for not more than three years,
612 and in the absence of any mitigating circumstances as determined by
613 the court, one year of the sentence imposed may not be suspended or
614 reduced in any manner. The court shall specifically state in writing for
615 the record the mitigating circumstances, or the absence thereof.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2007</i>	14-37a(a)
Sec. 2	<i>October 1, 2007</i>	14-141
Sec. 3	<i>October 1, 2007</i>	14-212(5)
Sec. 4	<i>October 1, 2007</i>	14-227a
Sec. 5	<i>October 1, 2007</i>	14-227b
Sec. 6	<i>October 1, 2007</i>	14-36(h)
Sec. 7	<i>October 1, 2007</i>	14-215(c)

Statement of Purpose:

To eliminate problems and inconsistencies in Connecticut's driving under the influence statutes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]